

P.C. 7/28/04 Item: 3.c.

File Number
CP04-027

Application Type
Conditional Use Permit

Council District
9

Planning Area
Cambrian/Pioneer

Assessor's Parcel Number(s)
569-15-022

STAFF REPORT

PROJECT DESCRIPTION

Completed by: Suparna Saha

Location: North side Kooser Road approximately 100-foot westerly of Joseph Lane

Gross Acreage: 2.56

Net Acreage: 2.56

Net Density: n/a

Existing Zoning: R-1-8 Residential

Existing Use: Utility Structure with Wireless Communications Facility

Proposed Zoning: No change

Proposed Use: Conditional Use Permit to allow three (3) wireless communication antennas on an existing 100-foot tall PG&E utility structure and associated 149 square foot equipment shelter on a 2.56-acre site.

GENERAL PLAN

Completed by: SS

Land Use/Transportation Diagram Designation
Medium Low Density Residential (8 DU/AC)

Project Conformance:
☒ Yes ☐ No
☐ See Analysis and Recommendations

SURROUNDING LAND USES AND ZONING

Completed by: SS

North: Single Family Residential

R-1-8 Single Family Residential

East: Single Family Residential

R-1-8 Single Family Residential

South: Single Family Residential

R-1-8 Single Family Residential

West: Single Family Residential

R-1-8 Single Family Residential

ENVIRONMENTAL STATUS

Completed by: SS

☐ Environmental Impact Report adopted
☐ Negative Declaration circulated on
☐ Negative Declaration adopted on

☒ Exempt
☐ Environmental Review Incomplete

PUBLIC AGENCY COMMENTS RECEIVED

Completed by: SS

Department of Public Works

No Comments

Other Departments and Agencies

None.

GENERAL CORRESPONDENCE

None.

ANALYSIS AND RECOMMENDATIONS

BACKGROUND

The applicant, Sprint PCS, is requesting a Conditional Use Permit to allow three wireless communication antennas mounted to a 5-foot tall extension and secured to the top of an existing 100-foot tall PG&E utility structure, and to construct an associated 149 square foot equipment shelter on a 2.56-acre site. The Zoning Ordinance requires a Conditional Use Permit for wireless communication facilities in the R-1-8 Residence Zoning District.

The subject site is a flat parcel, a corridor of land that runs beyond the project site through residential properties from Kooser Road in the south to Tobias Lane in the north. The subject site is vacant except for the existing utility structure. It is bounded by adjacent single-family residential uses to the north, east, south and west.

ENVIRONMENTAL REVIEW

Under the provisions of Section 15301 of the State Guidelines for Implementation of the California Environmental Quality Act (CEQA), this project is exempt from the environmental review requirements of Title 21 of the San José Municipal Code, implementing the California Environmental Quality Act, in that the project consists of a minor alteration to an existing facility involving a negligible expansion of use.

ANALYSIS

The primary issue analyzed is conformance with Council Policy 6-20, *Land Use Policy for Wireless Communications Antennas*, which provides criteria for siting such facilities including land use compatibility, location, setbacks from residential uses

City Council Policy (6-20): Land Use Policy for Wireless Communication Facilities

The proposed project complies with the *Council's Land Use Policy for Wireless Communication Facilities*. The Policy recognizes the importance of wireless communication facilities, but also the potential for related land use impacts, including visual clutter. The *Land Use Policy for Wireless Communication Facilities* was revised in September 2003, to include siting criteria for wireless antennas that are mounted on utility structures. These types of installations are identified as a way to reduce the overall visual impact of the development of the wireless antenna networks in San José.

The Policy generally discourages wireless communications facilities from properties with residential land use designations except Residential Support for the Core, High-Density Residential, or Transit Corridor Residential. Although the site is designated for single-family residential, the project conforms to the General Plan because the 2.56 gross acre site contains an existing PG&E public utility tower.

The proposed project would locate three (3) antennas mounted to a 5-foot tall extension and secured to the top of the existing 100-foot PG&E tower. The overall height to the top of the extension and antennas will be 105-foot. The four (4) associated equipment cabinets will be located at ground level beneath the tower occupying a total of 149 square feet.

The Council Policy requires building-mounted antennas to be located a minimum of 20 feet horizontally from any property with a residential use or General Plan designation. The proposed antennas would be located approximately 33 feet from the site's southwesterly property lines that abut single-family residential uses. The antennas are approximately 75 feet away from the nearest residential structure to the east.

The placement of the proposed antennas at the top of an existing 100-foot tall PG&E tower provides additional vertical separation between the antennas and adjacent houses which meets the intent of the Council Policy for appropriate residential separation. The proposed project will also reduce the need for additional building-mounted wireless antennas in the area that could less architecturally.

In conformance with the Policy, the project will also provide amenities to offset the potential visual impacts associated with the proposed equipment enclosure. The on-site equipment shelter will be located directly underneath the tower and screened from view with a 6-foot wooden fence and incorporate planting shrubs with irrigation system. The fence and landscaping will screen the visibility of the equipment shelter from Kooser Road and adjacent residential uses.

For the reasons stated above, staff concludes that the subject site is appropriate for the location of wireless communication antenna and associated equipment shelter with a Conditional Use Permit to ensure that the project conforms to City requirements and is compatible with the surrounding neighborhood.

PUBLIC OUTREACH

Notices of the public hearing were distributed to the owners and tenants of all properties located within 500 feet of the project site. Staff has been available to answer questions on the project from the public.

RECOMMENDATION

The Planning staff recommends that the Planning Commission approve the requested Conditional Use Permit and include the following findings and conditions in its Resolution:

Planning Commission finds that the following are the relevant facts regarding this proposed project:

1. This site has a designation of Medium Low Density Residential (8 DU/AC) on the adopted San José 2020 General Plan Land Use/Transportation Diagram.
2. Although the site is designated for single-family residential, the project conforms to the General Plan because the 2.56-acre site contains an existing public utility structure.
3. The project site is located in the R-1-8 Residence Zoning District.
4. The project proposes the installation of three (3) wireless communication antennae mounted to a 5-foot tall extension and secured atop an existing 100-foot PG&E tower and four (4) accompanying equipment structure located at ground level directly underneath the tower and screened from view

8. The antennas will be painted to match the existing structure to minimize the visual impacts created by existing utility poles and overhead service lines on the site.
9. Under the provisions of Section 15301 of the State Guidelines for Implementation of the California Environmental Quality Act (CEQA), this project is exempt from the environmental review requirements of Title 21 of the San José Municipal Code, implementing the California Environmental Quality Act of 1970, as amended.

This Planning Commission concludes and finds, based upon an analysis of the above facts that:

1. The proposed project is consistent with the adopted San José 2020 General Plan Land Use/Transportation Diagram of the City of San José.
2. The proposed project complies with all applicable provisions of the Zoning Ordinance.
3. The proposed project is in compliance with the California Environmental Quality Act.
4. The proposed project is consistent with City Council Policy 6-20: Land Use Policy for Wireless Communication Facilities.
5. The proposed project appropriately locates wireless communication antennae in an existing PG&E tower for high-tension lines.
6. The proposed project contains adequate setbacks from single-family residential uses.

Finally, based upon the above-stated findings and subject to the conditions set forth below, the Planning Commission finds that:

1. The proposed use at the location requested will not
 - a. Adversely affect the peace, health, safety, morals or welfare of persons residing or working in the surrounding area; or
 - b. Impair the utility or value of property of other persons located in the vicinity of the site; or
 - c. Be detrimental to public health, safety or general welfare; and

- b. By other public or private service facilities as are required.

In accordance with the findings set forth above, a Conditional Use Permit to use the subject property for said purpose specified above and subject to each and all of the conditions hereinafter set forth is hereby granted. This Planning Commission expressly declares that it would not have granted this permit except upon and subject to each and all of said conditions, each and all of which conditions shall run with the land and be binding upon the owner and all subsequent owners of the subject property, and all persons who use the subject property for the use conditionally permitted hereby.

CONDITIONS PRECEDENT

This Conditional Use Permit shall have no force or effect and the subject property shall not be used for the hereby permitted uses unless and until all things required by the below-enumerated precedent conditions shall have been performed or caused to be performed and this Resolution has been recorded with the County Recorder.

1. **Acceptance and Payment of Recording Fees.** The "Acceptance of Permit and Conditions" form shall be **signed, notarized, and returned** to the Department of City Planning within **60 days** from the date of issuance of the resolution granting the permit. *Failure to do so will result in this permit automatically expiring regardless of any other expiration date contained in this permit.* Fees for recording a Certificate of Permit with the Recorder for the County of Santa Clara must be submitted along with the Acceptance Form.

CONCURRENT CONDITIONS

The subject property shall be maintained and utilized in compliance with the below-enumerated conditions throughout the life of the permit:

1. **Conformance with Plans.** Construction and development shall conform to approved development plans entitled, "PG&E Tower 9/46 Kooser Road," dated 06/03/04 and last revised on June 25, 2004, on file with the Department of City Planning and Building and to the San José Building Code (San José Municipal Code, Title 24).
2. **Nuisance.** This use shall be operated in a manner which does not create a public or private

6. **Outside Storage.** No outside storage is permitted for the project except in areas designated on the approved plan set.
7. **Sign Approval.** No signs are approved at this time. All proposed signs shall be subject to approval by the Director of Planning.
8. **Colors and Materials.** All structure colors and materials are to be those specified on the approved plan set.
9. **Fire Flow.** Required fire flow for the site is 2,000 gpm, or as otherwise approved in writing by the Fire Chief.
10. **Fire Lanes.** Fire lanes, suitably designated "FIRE LANE - NO PARKING," shall be provided to the satisfaction of the Fire Chief.
11. **Hazardous Materials.** Any hazardous materials regulated by Chapter 17.68 of the San José Municipal Code on the site must be used and stored within approved buildings and/or within areas specified on the approved plan set, if any, in full compliance with the City's Hazardous Material Ordinance and the Hazardous Materials Management Plan for the site approved by the San José Fire Prevention Bureau.
12. **Anti-Graffiti.** The applicant shall remove all graffiti from buildings and wall surfaces within 48 hours of defacement.
13. **Discontinuation of Use.** Upon discontinuation of the use of the subject antennas, the applicant shall remove all antenna improvements associated with this permit within 30 days.
14. **Co-location.** The owner(s) and operators of the proposed antenna support structure shall allow the co-location of PSC antennas for other providers.
15. **Generators.** This permit does not include approval of emergency back-up generator on the subject site.

CONDITIONS SUBSEQUENT

2. **Revocation, Suspension, Modification.** This Conditional Use Permit may be revoked, suspended or modified by the Planning Commission, or by the City Council on appeal, at any time regardless of who is the owner of the subject property or who has the right to possession thereof or who is using the same at such time, whenever, after a noticed hearing in accordance with Part 3, Chapter 20.44, Title 20 of the San José Municipal Code it finds:
 - a. A violation of any conditions of the Conditional Use Permit was not abated, corrected or rectified within the time specified on the notice of violation; or
 - b. A violation of any City ordinance or State law was not abated, corrected or rectified within the time specified on the notice of violation; or
 - c. The use as presently conducted creates a nuisance.
- c: Building Division (2)
1. Peacock Associates, Attn: Jennifer Estes, 5855 Doyle Street, Emeryville, CA 94608.
 2. Santa Clara Valley Water District, Attn: Lauren L. Keuer, 5750 Almaden Expressway, San José, CA 95118

Attachments